United Nations A/HRC/37/3/Add.2

General Assembly

Distr.: General
20 March 2018

Original: English

Human Rights Council
Thirty-seventh session
26 February–23 March 2018
Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Annual report of the United Nations High Commissioner for Human Rights on the situation of human rights in Honduras*

Note by the Secretariat

In the present report, the United Nations High Commissioner for Human Rights describes the situation of human rights in Honduras from 1 January to 31 December 2017, with a focus on economic and social rights, notably land and labour rights, security, access to justice, the fight against impunity, democratic space and the situation of human rights defenders, journalists, indigenous peoples and women. The report also highlights some of the activities of the Office of the United Nations High Commissioner for Human Rights in Honduras and concludes with recommendations.

* The present report was submitted after the deadline in order to reflect recent developments.

GE.18-04312(E)
1804312

Please recycle

Annual report of the United Nations High Commissioner for Human Rights on the situation of human rights in Honduras**

I Introduction

1. On 4 May 2015, the United Nations High Commissioner for Human Rights signed an agreement with the Government of Honduras to establish a country office. The Office of the United Nations High Commissioner for Human Rights (OHCHR) in Honduras monitors the situation of human rights and provides capacity-building and technical assistance to State institutions and civil society organizations, with the overall goal of enhancing the promotion and protection of human rights in the country.

2. In April 2017, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people conducted a technical assistance mission to Honduras. In July 2017, the Assistant Secretary-General for Human Rights visited Honduras and met with high-level State officials, civil society organizations, human rights defenders and representatives of the international community.

II. Context

3. On 26 November 2017, presidential, legislative and municipal elections were held. After significant delays in the processing of electoral results, amid widespread claims of electoral fraud and nationwide protests, on 17 December 2017, the Supreme Electoral Court announced that President Juan Orlando Hernández Alvarado had been re-elected for a second four-year term and would be sworn in on 27 January 2018. His re-election was made possible by the striking down, by the Supreme Court of Justice, of the constitutional clause limiting the number of presidential mandates to one. In July 2017, the Human Rights Committee expressed concern that, despite the single-term limit, the current president was standing for re-election and called for the eligibility criteria established by the Constitution to be respected, particularly the presidential term limit.[1]

4. While there were no major incidents on polling day, international observers expressed their concern vis-à-vis the counting of votes and the transmission and delayed publication of results. In its final report, the Electoral Observation Mission of the Organization of American States indicated that the irregularities, errors and systematic problems surrounding the election, combined with the narrow margin of victory, gave rise to uncertainty regarding the electoral results.[2]

5. Amidst widespread allegations of fraud, protests erupted on 29 November, which included demonstrations, mass meetings in front of State institutions and roadblocks. In some cases, discontent led to looting and damage to private and public property. The Government responded by imposing a state of emergency, which remained in force for 10 days, and by using increased force to disperse protests. On 1 December, Executive Decree No. 084 of 2017 established a 12-hour nationwide curfew, authorizing the detention of individuals breaking that restriction and providing for the dispersal of protesters from roads, bridges and public spaces. The Decree required that a register be kept at each police or military facility, implying the possibility of the transfer of detainees to military facilities. Between 1 and 5 December, 1,351 persons were detained for violating the curfew.[3] OHCHR collected complaints of ill-treatment from individuals who had been held in San Pedro Sula, at facilities of the 105th Brigade that are under the responsibility of the

** Circulated in the language of submission and Spanish only.

[1] See CCPR/C/HND/CO/2, paras. 44–45.

[2] See Organization of American States, "Electoral Observation Mission. General elections: Honduras, final report", 26 November 2017, p. 13.

[3] See www.presidencia.gob.hn/index.php/seguridad/3390-en-tres-dias-mas-de-1-350-personas-detenidas-por-por-incumplimiento-del-toque-de-queda (Spanish only).

National Inter-institutional Security Force. OHCHR observed that elements of the security forces, especially the Public Order Military Police, used excessive force to disperse protests, resulting in violations of the right to life and physical integrity. Violence broke out at some of the protests and, on 22 December, a police officer died as a result of injuries inflicted by a petrol bomb.

6. The protests that erupted in reaction to the perceived lack of fairness in the presidential elections find their roots in the unresolved legacy of the 2009 military coup d'état and the ensuing social and political polarization and institutional weaknesses. Following his re-election, President Hernández Alvarado called for an inclusive national dialogue to overcome the ongoing crisis and consolidate social peace. OHCHR considers that human rights must feature prominently in any such dialogue if sustainable progress towards social peace, development and democracy is to be achieved. The Office recalls that the 2011 report of the Truth and Reconciliation Commission contained 84 recommendations on addressing institutional weakness and ensuring progress towards national reconciliation.[4] The report of the Government on the situation of human rights in Honduras for the period 2016–2017 indicates that, as at 2013, 37 recommendations had been implemented, 32 were being processed and 15 were still pending.[5] Many of those recommendations remain pertinent, including those calling for the reform of the electoral system, the strengthening of the independence of the Supreme Electoral Court and the reform of the process by which its judges are selected. The follow-up unit of the Truth and Reconciliation Commission was disbanded after the presentation of its 2013 report.

III. Poverty and economic and social issues

7. Honduras is marked by high levels of entrenched poverty, affecting more than 60 per cent of the population, 38 per cent of whom live in extreme poverty.[6] Moreover, due to population growth, the number of poor families has increased by 63 per cent, from 786,529 in 2001 to 1,207,999 in 2016, namely about 5.3 million persons out of a total population of 8.7 million. The country is one of the most unequal in Central America.

8. While the Constitution and laws of Honduras provide a framework that is generally aligned with international human rights norms and standards, the protection derived from them is unevenly implemented across the country. Enjoyment of human rights is conditioned by sex, social strata, ethnicity and geographic area, with marginalized sectors of the population suffering the most from violence, displacement and lack of access to security, justice, health care, education and other services. According to the Economic Commission for Latin America and the Caribbean, 47 per cent of Afro-Honduran women aged between 15 and 29 years are out of work and not in education.[7] The rural divide persists: over 7 per cent of children of primary school age in rural areas do not attend school, mainly due to issues of accessibility and adaptability of education.[8] Inequality and discrimination have an impact not only on socioeconomic, but also on civil and political, rights. The results of the elections illustrate the barriers that women and marginalized groups, such as indigenous peoples, continue to face to participation in political life. Women's representation in the National Congress decreased from 25.7 to 21.8 per cent, with women elected to only 28 of the 128 seats. Although indigenous peoples are estimated to represent about 10 per cent of the overall population, there is only one indigenous person sitting in the National Congress.

[4] See www.oas.org/es/sap/docs/dsdme/2011/cvr/honduras%20-%20informe%20cvr%20-%20recomendaciones.pdf.

[5] See http://observatorio.sdhjgd.gob.hn/biblioteca-virtual/publicaciones/informes/249-informe-sobre-la-situaci%C3%B3n-de-los-derechos-humanos-en-honduras-2016-2017/file.

[6] See www.ine.gob.hn/index.php/25-publicaciones-ine/91-linea-de-pobreza.html.

[7] *Social Panorama of Latin America 2016* (United Nations publication, Sales No. E.17.II.G.6). Available from http://repositorio.cepal.org/bitstream/handle/11362/41599/4/S1700566_en.pdf.

[8] See www.ine.gob.hn/index.php/25-publicaciones-ine/90-analfabetismo.html.

9. The human rights and development challenges faced by the State party are deeply entrenched. Importantly, Honduras is a party to the main human rights treaties (with several optional protocols pending ratification)[9] and it has committed to achieving the Sustainable Development Goals. Recognition of the strong link between violence, insecurity and high levels of poverty, inequality and exclusion, together with the placing of equality and non-discrimination at the centre of national efforts are essential if Honduras is to make concrete progress concerning the protection of human rights and sustainable development.

A. Access to, use of and control over land

10. Access to, use of and control over land in Honduras are cross-cutting issues involving a source of livelihood and directly affecting the enjoyment of other human rights. These issues are central to economic rights, including the right to food, particularly in view of the high cost of the basic food basket. Land distribution in Honduras is highly unequal. In 2016, the Committee on Economic, Social and Cultural Rights expressed its concern at the impact of land-grabbing and the hoarding of natural resources in the country.[10] Moreover, security of land tenure is challenged by ambiguity surrounding ownership, despite the ongoing titling programmes. Small plot holders are most affected by tenure insecurity, as many of them lack official titles to their land. They also suffer the highest poverty rate, as their activities are limited to small-scale subsistence farming. Women continue to face discrimination in access to and control of land, as they make up only 4 per cent of beneficiaries of a 30-year agrarian reform process and 22 per cent of beneficiaries of the land title programme.[11]

11. Restricted access to land and insecurity of land tenure are key drivers of conflict and human rights violations. At times, landless rural dwellers seeking access to land encroach on privately owned plots, from which they are, in turn, forcibly evicted. Between 2016 and 2017, at least 1,100 rural families were made homeless in 73 evictions, according to the national centre for agricultural workers. These conflicts generate violence and insecurity: between 2016 and 2017, over 2,000 rural dwellers, including women and children, were prosecuted on criminal charges connected to land encroachment. Forced evictions are often carried out jointly by the police and the military and sometimes involve the use of excessive force. For instance, in January and October, security forces used tear gas against inhabitants of San Pedro de Tutule who were protesting against evictions affecting children and older persons. During evictions, houses and crops are often destroyed and set on fire by security forces, worsening poverty levels among the communities affected. Evictions should not result in individuals being rendered homeless. OHCHR has not been able to identify any instances in which the Honduran authorities designed and implemented a plan to prevent and identify alternatives to homelessness.[12] According to the national centre for agricultural workers, over 200 evictions orders were pending execution as at October, raising concerns regarding the need to improve existing eviction procedures, in line with the guidance provided by human rights mechanisms and OHCHR.[13]

12. OHCHR observes that, despite the number of land titles issued by the National Agrarian Institute, and bearing in mind the 20,000 titling applications that are pending, there is a need to urgently shift focus away from criminalization of land encroachment and towards the socioeconomic conditions underlying the issue, such as poverty and the lack of food security.

13. Lessons should be drawn from the continuing land conflict in the Bajo Aguán region, which has been marked by cycles of encroachments and evictions following land sales in the 1990s. In 2017, at least three men and one child were killed; allegedly for reasons connected to the land conflict. An investigation into these killings was ongoing as at

[9] See http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=76&Lang=EN.

[10] See E/C.12/HND/CO/2, para. 41.

[11] See www.fao.org/docrep/v9650e/v9650e06.htm.

[12] See A/HRC/4/18, annex I.

[13] See www.ohchr.org/EN/Issues/ForcedEvictions/Pages/Index.aspx.

December and at least 85 rural dwellers had been charged with trespassing and/or illegal occupation. The killing of two leaders of the unified rural dwellers' movement of the Aguán, in October 2016, remained unpunished and a number of arrest warrants unexecuted. The plan to turn large-scale commercial agriculture into a driving engine of the Honduran economy, at a time when protection of access to land is weak, risks pushing small holder farmers and rural dwellers off their land and out of production, exacerbating the levels of poverty.

B. Labour rights

14. Various forms of violations of rights persist in the labour market and remain unpunished, such as the non-payment of the minimum wage and working conditions that do not meet international standards, including those on occupational safety and health. An important obstacle to the enforcement of labour legislation and, therefore, to the protection of labour rights, is the labour inspectorate's lack of capacity regarding the monitoring of employment and related safety and security conditions. OHCHR welcomes the adoption, in May, of a new law on labour inspections, as well as the increase in the budget of the Ministry of Labour and Social Security, which has enabled the recruitment of additional inspectors and has led to an increased number of inspections. Between June and November, 12,000 inspections were conducted, about 60 per cent of which identified breaches of laws, rules and regulations.[14]

15. Concerns related to the employment, safety and security conditions of workers in the underwater fishing industry in La Mosquitia persist despite being brought to the attention of the Inter-American Commission on Human Rights in 2009[15] and despite the development of relevant programmes by the inter-institutional commission on underwater fishing. In 2017, at least 39 divers were admitted to hospital suffering from decompression sickness, the majority of whom consequently developed some type of disability. The labour inspectorate conducted only one inspection of fishing vessels on the high seas in 2017, which appears insufficient considering that at least 2,000 persons are estimated to be engaged in underwater fishing, the principal source of work for the inhabitants of La Mosquitia.[16] Ensuring adequate protection for agricultural workers is another important challenge, which has become more pressing due to increased investment in large-scale agricultural projects, stimulated by the opening up of Honduras to global commerce through the signing of investment and free trade agreements.

C. Business and human rights

16. OHCHR has observed socioenvironmental conflicts related to the implementation of energy projects and the limited capacity of institutions to address those conflicts promptly and in accordance with international human rights norms and standards. OHCHR has supported dialogues between communities, the State and business, such as in Atlántida and Choluteca Departments, assisting in the conclusion and monitoring of agreements and raising awareness of international standards.

17. The Government has not adopted formal guidance for businesses on their human rights responsibilities. OHCHR considers that there is a need for a public policy or national action plan to define the legal framework for businesses regarding respect for human rights.

---

[14] See http://portalunico.iaip.gob.hn/portal/index.php?portal=419.

[15] See www.cidh.oas.org/annualrep/2009eng/Honduras1186.04eng.htm.

[16] See Inter-American Commission on Human Rights, *Situation of Human Rights in Honduras 2015*, OEA/Ser.L/V/II. Doc 42/15, para. 428. Available from www.oas.org/en/iachr/reports/pdfs/Honduras-en-2015.pdf.

IV. Security

A. Violence and insecurity

18. Official data indicate that the homicide rate continued to decrease, reaching 42.76/100,000 in 2017,[17] in line with the downward trend observed since 2012, compared to a peak of 86.47/100,000 in 2011. However, the rate remains one of the highest in the world.

19. In 2017, the Government continued to pursue a hard-line security approach, focused on the repression of crime, including the intervention of the military in public security. The number of Public Order Military Police officers was further increased, to 4,000 in 2017, with the force participating in activities such as forced evictions, policing of demonstrations and anti-organized crime operations. Human rights mechanisms have repeatedly expressed concern about the disproportionate role of the military in public security functions. In July 2017, the Human Rights Committee warned against the militarization of law enforcement and called upon Honduras to strengthen the national police force, with a view to enabling it to take over law enforcement functions from the armed forces.[18] In 2016, the United Nations High Commissioner for Human Rights called on Honduras to ensure that the deployment of military forces to perform civil security duties should take place only under exceptional circumstances, be limited in time and be under strict civilian control.[19]

20. No official information has been provided by the Government in relation to the overall estimated number of persons killed or injured during the post-electoral protests. At the time of finalizing the present report, OHCHR confirmed that, between 29 November and 22 December, at least 22 persons were killed in the context of the protests, including 21 civilians and one police officer. OHCHR has received credible reports that at least 13 persons, including 2 women and 2 children, were killed by members of the Honduran security forces who were dispersing protests, removing roadblocks or pursuing suspects and that at least 55 persons were injured, over half by firearms. Notwithstanding the fact that certain security operations took place in contexts where violence occurred, OHCHR observed that the security forces used excessive force to disperse protests. OHCHR considers that at least 12 of the 13 killings are credibly attributable to the Public Order Military Police and most of the injuries and 1 killing to the national police. OHCHR considers that this evidence further strengthens the merit of the consistent recommendations formulated by human rights mechanisms to refrain from deploying military forces in civil security duties. Some of the above-mentioned allegations are currently being investigated by the Office of the Attorney General.

21. In February, the National Congress adopted a law strengthening public security, which unduly expands the notion of "terrorism" to include criminal acts generally committed by gangs and organized criminal groups. In September the National Congress adopted title XXXI of the new Penal Code on "terrorism", which pursues the same approach. While OHCHR urges the State to exercise its duty to protect all individuals under its jurisdiction from violence, it observes that United Nations human rights mechanisms have made coherent proposals for the definition of "terrorist" offences and have warned against the undue extension of the notion to cover other criminal conducts. In October 2016, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism brought to the attention of the Government of Honduras his concerns related to the undue extension of the notion of terrorism envisaged in the context of the reform of the Penal Code.[20] In January, OHCHR reiterated the advice of the Special Rapporteur and encouraged the State to implement his recommendations.

---

[17] See www.sepol.hn/artisistem/images/sepol-images/images/cierre_2017_preliminar.jpg.

[18] See CCPR/C/HND/CO/2, paras. 20–21.

[19] See A/HRC/34/3/Add.2, para. 12.

[20] See https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=22802, in Spanish.

22. Given that organized crime and insecurity are widespread, OHCHR encourages the State party to take steps to ensure full compliance with the United Nations Convention against Transnational Organized Crime, as ratified by Honduras in 2003.[21] The adoption of the law on effective cooperation, supported by the Organization of American States Mission to Support the Fight against Corruption and Impunity in Honduras, which provides for immunity from prosecution or reduction of sentences in exchange for information that assists in the prosecution of serious crimes, has been pending for several months before the executive and the National Congress. With over 75 per cent of violent deaths resulting from firearms, OHCHR encourages the National Congress to adopt the framework required to exercise effective control over the possession and use of firearms and reduce the number of weapons in circulation.[22] Legislation on the use of force is also urgently required. According to data from the Ministry of Security, 719 registered private security companies handle an arsenal of 32,266 weapons and employ 32,341 security guards. OHCHR has called on the National Congress to adopt legislation to regulate private security companies, to exclude them from performing public order functions and to control their access to small arms.

23. OHCHR welcomes the adoption of the organic law on the police, in May 2017, and of the law on the police force, in September 2017, which are aimed at improving the police force, and provide for, inter alia, ongoing training on human rights and new internal monitoring mechanisms to combat corruption within the institution. The special commission on police corruption[23] continued its work, and, by the end of the year, it had screened 10,206 officials and dismissed 4,925. In view of the lack of concrete progress regarding the investigation of the 144 criminal cases involving at least 455 police officers referred to the Office of the Attorney General by the special commission, OHCHR is concerned at the lack of progress in the fight against impunity.

B. Prevention of violence

24. OHCHR is concerned that results achieved in the reduction of violence and insecurity may not be sustainable unless security policies fully integrate a prevention and rehabilitation element and address the structural causes of violence. Investment in security needs to be accompanied by adequate investment in the justice sector. In 2017, about 6 per cent of the national budget was allocated to the security sector, while 1.7 per cent was allocated to the judiciary and the Office of the Attorney General.[24]

25. Despite the establishment of a violence prevention department within the Ministry of Security and the implementation of the national policy on public security for the period 2011–2022, prevention gaps remained, especially at the local level. As at October, the Ministry of Security had only certified local plans for coexistence and public security for 9 out of 298 municipalities. This certification is required if funds collected through the security tax are to be disbursed. While Decree No. 105 of 2011 requires that 30 per cent of the funds collected through this tax be allocated to prevention, OHCHR has not been able to obtain access to data on security tax funding effectively allocated to municipalities because such information is classified.[25] OHCHR reiterates that access to information is a fundamental right and that access to information of public interest helps prevent corruption and promote transparency. Any limitations to this right should be exceptional and be aimed at preventing a real and imminent danger to national security. Therefore, OHCHR encourages the State to revisit the decision to classify as confidential public information on budget allocations.

[21] See www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html.

[22] See CCPR/C/HND/CO/2, para. 21.

[23] See A/HRC/34/3/Add.2, paras. 5 and 13.

[24] See http://www.sefin.gob.hn/wp-content/uploads/2017/03/PRESUPUESTO_CIUDADANO_2017.pdf.

[25] Decree No. 418 of 2013.

C. Children in conflict with the law

26. Some children, particularly those from poor families and marginalized urban areas, are stigmatized and often linked to gangs as a part of public discourse. In May, based on the claim that children were increasingly involved in "high impact"[26] crimes, the executive launched an initiative to reform the Children and Adolescent Code, exploring the possibility of adopting measures such as the reduction of the age of criminal responsibility and the increase of the length of detention for children in conflict with the law up to 20 years.[27] After consulting with the Office of the Attorney General, the judiciary and human rights and child protection actors, the executive abandoned this proposal. Nevertheless, serious concerns persist regarding the handling of the situation of children in conflict with the law, as it remains based on punishment, rather than on a human rights-based approach that promotes the child's sense of dignity and worth and reintegration.[28]

27. Despite the fact that, in 2015, the Government recognized that the situation of children deprived of their liberty constituted a national emergency, conditions in detention centres have remained substandard, with limited investment in rehabilitation and obstacles to the enjoyment of the rights to health and education, physical integrity and freedom from torture and other cruel, inhuman or degrading treatment or punishment, and to the implementation of the core principle of the best interests of the child. In November, 572 children, including 67 girls, were deprived of their liberty in five centres, all run on a total monthly budget of about $450,000. It is evident that this budget is wholly inadequate, as it is supposed to cover the salaries of personnel, the maintenance of the centres, the upkeep of the children and their rehabilitation and the administration of non-detention measures.[29]

D. Individuals deprived of their liberty

28. Between 2016 and 2017, the number of inmates participating in rehabilitation and education programmes increased by 20 per cent, reaching about 23 per cent of the total prison population. By September 2017, the number of incarcerated adults had reached 19,000 (including 1,050 women) compared to 17,510 in October 2016. The number of persons in pretrial detention as a percentage of the total prison population also increased, from 24 per cent in 2016 to 53 per cent in 2017.[30] The new detention facilities of Ilama and Morocelí became operational and maximum security modules were set up in the Támara, El Porvenir and Naco penitentiaries.

29. Overall, the situation regarding conditions in the penitentiary system remains similar to that of 2016, including in terms of overcrowding, poor infrastructure and gaps in meeting the education, health and food needs of detainees.[31]

V. Rule of law

A. Impunity and access to justice

30. In the course of 2017, the Government took steps to reduce levels of impunity. Efforts in that regard included: the establishment of a specialized jurisdiction to combat corruption and extortion; the recruitment of 126 prosecutors and the launch, in August, of a competitive process for the selection of 191 judges; the establishment of new courts in rural

[26] Code of Penal Procedure, art. 184.

[27] See https://drive.google.com/file/d/0B4E_1IBL2vi3b1dEUU15M25oUms/view.

[28] Committee on the Rights of the Child, general comment No. 7 (2005) on implementing child rights in early childhood.

[29] According to the Supreme Court of Justice, 509 non-detention measures were ordered in 2016 and 169 were ordered in 2015.

[30] National Committee for the Prevention of Torture, National Report 2017, p. 25.

[31] Ibid.

areas, such as Nacaome, Ocotepeque and Yoro; and the implementation of a plan to reduce delays in judicial proceedings by promoting compliance with judicial deadlines.

31. Impunity remains a structural problem that affects the full enjoyment of human rights, including economic, social and cultural rights. The ongoing investment in the strengthening of the prosecution services has not yet resulted in an increase in the number of charges filed, which has remained stable at about 14,000 per year.[32] Only 1 out of 4 cases reaches the trial phase, with 75 per cent being dismissed or dropped during the preliminary hearings. On average, 3,600 cases per year are heard by the courts.[33] The persisting backlog of criminal cases is of concern and OHCHR welcomes efforts to reduce delays in judicial proceedings. To date, however, such efforts have not had a significant impact on the length of first instance trials, which continue to last for about 20 months, and have not contributed to the reduction of the rate of pretrial detention.

32. Based on its analysis of official data, OHCHR has observed that, on average, the judiciary hands down verdicts in about 50 per cent of all cases. This implies that, despite ongoing efforts, more resources are required to effectively address the backlog. Delays also hamper the effective exercise by the Supreme Court of Justice of its constitutionally mandated human rights protection function.[34] Habeas corpus procedures before the Supreme Court are, on average, resolved within 45 days, lessening the protective impact of the procedure. Appeals to the Constitutional Chamber of the Supreme Court of Justice can take several years, as illustrated in the case brought against the law on mining by the national coalition of environmental networks and organizations, which was filed in October 2014 and resolved in June 2017. Furthermore, the rulings of the Court are often implemented with delays, or only partially, as occurred, for example, with its decisions on substandard conditions, torture and ill-treatment in juvenile detention centres.[35]

33. Access to justice remained problematic, especially for women in rural areas and for specific groups, such as indigenous peoples and Afro-Hondurans. Although the law establishes the right to free legal aid for economically disadvantaged persons, including in civil matters, such aid is not regulated, its actual use is extremely limited and it only makes up 11 per cent of all legal aid extended.[36] The national rate of three legal aid lawyers per 100,000 persons is insufficient to ensure proper legal assistance and representation. The rate is even lower in departments such as Intibucá, Lempira and Gracias a Dios, which present high poverty rates and a high concentration of indigenous peoples.

B. Strengthening the justice system, including its independence

34. OHCHR reiterates the importance of making prompt progress in the establishment of an independent governance structure for the judiciary, in order to allay concerns over the concentration of disciplinary and administrative functions in the hands of the President of the Supreme Court of Justice.[37] OHCHR welcomes the announcement by the President of the Supreme Court of Justice that a proposal to this effect is being developed.[38]

35. In October 2016, the President of the Supreme Court of Justice announced the launch of a vetting process for the judiciary. However, the announcement has not yet been followed by any concrete action. OHCHR stresses that, if pursued, such efforts should be fully compliant with the guarantees of judicial independence. The regulation of appointments and the judicial career path is urgently required to promote merit-based

[32] Supreme Court, Annual Judiciary Report 2016.

[33] Ibid.

[34] Constitution, Decree No. 131 of 11 January 1982.

[35] The Office of the Special Prosecutor for Children filed three habeas corpus petitions respectively in 2005, 2015 and 2017; the Supreme Court of Justice granted the first two petitions and a decision on the third pending by December 2017.

[36] Official communication from the Honduran legal aid service. [37] See A/HRC/34/3/Add.2, para. 23.

[37] See A/HRC/34/3/Add.2, para. 23.

[38] See www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=21849&LangID=E.

selection, transparency and the independence of the judiciary. The ongoing practice of interim appointment raises concerns, as it takes place outside any competitive examination process. OHCHR considers that the Organization of American States Mission to Support the Fight against Corruption and Impunity in Honduras, a special mechanism established for the selection and appointment of prosecutors and judges to the anti-corruption circuit, constitutes a model of good practice that could be adopted for other jurisdictions.

36. In addition to ensuring adequate funding and an independent governance structure for the judiciary, it is essential to take the above-mentioned measures, which would substantially boost efforts to build trust in a justice system that, according to social research studies, the general population continues to perceive as being unfair and corrupt.[39]

C. Prosecution of human rights violations

37. At the level of the Office of the Attorney General, the task of investigating and prosecuting human rights violations is divided up among various units and offices, with no clear lead being attributed to the Office of the Special Prosecutor for Human Rights. OHCHR considers that the way that competences are currently distributed should be reviewed and that the institutional structure, procedures and capacity of the specialized human rights office should be strengthened.

38. Strengthening the accountability of members of the security sector should be a priority. According to official data provided by the Ministry of Security, no disciplinary actions were taken against police officers in 2017, when 52 police officers were under investigation for homicide and 39 for torture.[40] The Office of the Attorney General did not disclose to OHCHR any information on investigations launched concerning members of the Public Order Military Police during 2017 by the specialized unit established under Decree No. 168 of 2013. At the time of finalizing the present report, no member of the Public Order Military Police or the national police had been charged in relation to the killings and injuries they were allegedly responsible for in the context of the December electoral protests and none had been suspended pending investigation.

VI. Democratic space

39. During 2017, a range of sectors engaged in social protests at the national and local levels. In addition to the protests against the perceived unfairness of the November presidential results, demonstrations were held against the reform of the health sector, the establishment of a toll system on main routes and development projects, such as the construction of a hydroelectric dam in Pajuiles, Atlántida Department and a solar power plant in Choluteca Department. There were also calls for the cancellation of the currently suspended Agua Zarca project in the territory of the indigenous Lenca people.

40. The conflict between the authorities at the National Autonomous University of Honduras and students' movements continued for most of the year, with a breakdown in dialogue due to non-fulfilment of the commitments made in 2016, the imposition of disciplinary measures and the launch of criminal proceedings against students involved in protests. OHCHR called for respect for peaceful on-campus protest and for the university leadership to honour agreements reached with students in 2016.

41. Protests continued in Bajo Aguán. In October, the Ministry of Human Rights, Justice, Governance and Decentralization undertook to take the lead in establishing space for dialogue on the ongoing land conflict with the sectors concerned, but no concrete action had been taken at December 2017. Peaceful social protests are a legitimate means to demand respect for human rights and constitute an important form of participation in political and public life that can be an opportunity to reorient State policies. OHCHR

[39] See file https://iudpas.unah.edu.hn/dmsdocument/1906-informe-ejecutivo-encuesta-percepcion-2016-final.

[40] Memorandum DIECP-SG 255-2017.

encourages authorities at the central and local levels to pay attention to social demands and to create national and local dialogue processes with diverse sectors, including rural and marginalized groups.

42. In February, the National Congress adopted articles 335 and 335 (b) of the Penal Code, which respectively define the criminal offences of terrorism and of incitement to terrorism. OHCHR and the Inter-American Commission on Human Rights and its Special Rapporteur for Freedom of Expression expressed concern regarding the reforms, indicating that the excessively broad notions they introduced and the ambiguity surrounding the conducts to be punished might be used to sanction social demands and movements and the work of human rights defenders.[41]

43. On 1 December, the executive adopted Executive Decree No. 84 of 2017, which imposed a 10-day curfew and restricted the rights to liberty of the person and freedom of movement and assembly, citing the need to guarantee the security of the population and maintain public order and the rule of law, which were ostensibly threatened by the violence and vandalism which had been taking place in parts of the country since 29 November. On 5 December, Executive Decree No. 85 of 2017 was adopted, which reaffirmed the above-mentioned restriction of rights, while reducing the duration of the curfew and its geographical coverage. OHCHR found that both decrees were imprecise, as they stated that the curfew could be applied in all or parts of the national territory, raising questions regarding the principle of legality. OHCHR considers that the decrees failed to clearly demonstrate that the situation amounted to a public emergency that threatened the life of the nation and that the restrictions ordered, including the curfew, were absolutely necessary.[42] OHCHR and the Inter-American Commission for Human Rights underlined the sensitivity of adopting such measures in the context of an electoral process,[43] given their impact on the freedom of assembly and participation in public and political life.

Human rights defenders

44. In 2017, OHCHR documented violence, intimidation and threats, both individual and collective, targeting human rights defenders, including infringements of the rights to privacy and property, such as surveillance, including the taking of photographs, computer theft and assault.

45. Violations against human rights defenders occurred primarily in the context of land conflicts and mainly targeted indigenous and Afro-Honduran activists.[44] Other attacks targeted the legal representatives of well-known human rights defenders, such as the lawyers working on the killing of Berta Cáceres. Social leaders were also targeted, often through defamation campaigns and intimidation, such as in the case of the Jesuit priest and head of the analysis, investigation and communication team, Ismael Moreno, and the head of the committee of relatives of disappeared detainees in Honduras, Bertha Oliva. Since the post-electoral protests, OHCHR has also documented the intensification of a campaign of intimidation against human rights defenders active in the northern regions, where the protests were most intense. Pamphlets containing attacks on human rights defenders were circulated among the general public and a number of those targeted have reported threatening calls and surveillance.

46. These attacks took place in a continued context of stigmatization of the work of human rights defenders, including by high-level government representatives. In July, the Human Rights Committee expressed concern at the disparaging statements made by senior

[41] See www.oas.org/en/iachr/expression/showarticle.asp?artID=1054&lID=1.

[42] Human Rights Committee, general comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency.

[43] See www.oas.org/en/iachr/media_center/PReleases/2017/197.asp.

[44] Fourteen persons (12 men and 2 women) with regard to whom precautionary measures were adopted following requests by the Inter-American Commission for Human Rights have been killed since 2012, the most recent victim being a man killed in 2017 in Atlántida. Ten of the victims were working on land issues and six were indigenous persons.

Government officials about members of the delegation of Honduran non-governmental organizations (NGOs) that attended the second review of Honduras.[45] In September, the Secretary-General identified Honduras as one of 29 countries where persons cooperating with the United Nations human rights system had faced intimidation and reprisals.[46]

47. The national mechanism for the protection of human rights defenders, journalists, media workers and justice system actors of the Ministry for Human Rights, Justice, Governance and Decentralization is currently operational. Between January and September, the national mechanism granted protection measures to 55 human rights defenders, 20 journalists, 6 media workers and 5 justice system actors. By December, the national mechanism had examined 230 protection requests, dismissing 65 and ruling that 165 fell within its purview. Currently, 143 cases are being handled and 22 have been closed. Risk analysis was conducted for 91 cases. In September, OHCHR requested access to the risk assessments of individual cases generated by the technical committee of the national mechanism. This request was denied on the grounds of confidentiality. The decision limits the ability of OHCHR to provide technical assistance to the State party and to share good practices from protection mechanisms in other countries in the region. Furthermore, OHCHR continued to observe deficiencies in the coordination between the mechanism and the national police regarding the implementation of protection measures. In January, a lawyer and husband of a human rights defender was killed in an armed attack in La Ceiba. The mechanism had granted him a police escort but it was not made available. OHCHR observed that the national council of the mechanism[47] did not adequately perform its decision-making and advisory role and that State institutions tasked with key protection functions, such as the Office of the Attorney General and the judiciary, were often absent from meetings with the national council of the mechanism or were represented by low-level officials who were unable to follow up and make decisions on behalf of their institutions.

48. OHCHR welcomes the preliminary efforts by the Office of the Attorney General to develop a protocol for the investigation of crimes against human rights defenders, as recommended by the Inter-American Commission on Human Rights. OHCHR reaffirms the need to prioritize the investigation of attacks against human rights defenders and to enhance the analysis of patterns and institutional coordination in the Office of the Special Prosecutor for Human Rights. Regarding the emblematic case of the killing, in March 2016, of human rights defender Ms. Cáceres, eight individuals have been charged with homicide or attempted homicide to date and are currently being detained. However, since September 2016, the trial has been postponed on more than eight occasions, at times at the request of the victims' lawyers, invoking the failure of the Office of the Attorney General to disclose evidence. It is hoped that the announced involvement of the Organization of American States Mission to Support the Fight Against Corruption and Impunity in Honduras in the investigation of the allegations of corruption, abuse of authority, fraud and money-laundering surrounding the Agua Zarca concession will contribute to the identification of the persons who ordered the killing of Ms. Cáceres.

49. Legal actions for defamation and slander continued to be used against human rights and land defenders, such as in the case of Garifuna leaders Miriam Miranda and Suyapa Martínez.

50. At least 5 journalists and media workers were killed in 2017, a figure that represents a decrease when compared to the peak of 21 killings registered between 2014 and 2015.[48] Only 6 out of the 68 cases of registered attacks against journalists that occurred between 2001 and 2016 have been heard in court and the alleged perpetrators sentenced.[49]

[45] See CCPR/C/HND/CO/2, para. 42.

[46] See A/HRC/36/31.

[47] The national council is one of the organs of the national mechanism, pursuant to Decree No. 34 of 2015, article 19 (2).

[48] See http://conadeh.hn/wp-content/uploads/2017/04/Informe-Anual-2016.pdf.

[49] Information prepared by the Observatories System of Penal Justice of the Mission to Support the Fight Against Corruption and Impunity in Honduras of the Organization of American States based on data supplied by the Office of the National Commissioner for Human Rights.

VII. Rights of indigenous peoples

51. Lack or insecurity of land tenure disproportionally affects indigenous peoples and Afro-Hondurans. Under the agrarian law, indigenous peoples who can prove occupation of ancestral lands can obtain community titling from the National Agrarian Institute. Between 1993 and 2017, just under of 1.5 million hectares of land were titled to indigenous peoples.[50]

52. OHCHR has observed that private titles and concessions over indigenous land continued to be issued, without the indigenous peoples concerned being consulted with a view to obtaining their free, prior and informed consent. Legal protection from third parties' interference is weak. In June, charges for abuse of authority brought by the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage against the national registry for private titles over inalienable ancestral land of the Garifuna community of Guadalupe were dismissed. In La Mosquitia, titles have been issued in favour of territorial councils, but their enjoyment is challenged by the presence of mestizo small holders and large-scale ranchers who have either illegally bought inalienable land or encroached on it.

53. Government-led efforts to adopt a law on the right to free, prior and informed consent and consultation continued, following steps initiated in 2015. To strengthen this process, the Government invited the Special Rapporteur on the rights of indigenous peoples to visit Honduras. The Special Rapporteur provided technical assistance through written observations[51] and during a visit she conducted in April.[52] She identified weaknesses in relation to the content of the draft law and the accompanying consultation process. Besides highlighting gaps in the protection extended by the draft law when compared with international standards, she encouraged the adoption of steps to ensure the effective participation of indigenous persons in the elaboration of the legislative proposal. The Human Rights Committee formulated similar observations in July.[53]

54. The implementation of the decisions of the Inter-American Court of Human Rights involving the Garifuna communities of Triunfo de la Cruz and Punta Piedra[54] has faced significant delays, linked to key issues such as the status of the Izopo natural park and land titling. In December, in order to promote progress, the interinstitutional commission tasked with coordinating the implementation of the decisions,[55] to which OHCHR provides technical assistance, developed a two-year work plan. It is important that the affected communities be consulted about this plan.

VIII. Violence against women and gender-based violence

55. Violence against women and girls in all its forms remained widespread. In 2017, at least 236 women were killed nationwide and, in Tegucigalpa alone, over 400 sought medical attention as survivors of sexual violence. Since 2013, the Office of the Attorney General has opened only 59 cases of femicide and only 20 sentences have been handed down. Complaints of sexual violence and domestic violence represented 20 per cent of all complaints filed with the national police in 2017. In 2016, 19,000 cases of domestic violence were brought before the courts, an increase of 5 per cent compared to 2015.

---

[50] See www.ina.hn/userfiles/Titulaci%C3%B3n%20de%20tierras%20los%20tres%20sectores%201975%20-%202017,%20actualizado%20el%207%20de%20febrero%20de%202018.pdf.

[51] See http://unsr.vtaulicorpuz.org/site/images/docs/special/2017-06-09-honduras-unsr-additional-observations.pdf.

[52] See http://hn.one.un.org/content/unct/honduras/es/home/presscenter/comunicado-de-la-relatora-especial-sobre-los-derechos-de-los-pue.html.

[53] See CCPR/C/HND/CO/2, para. 47.

[54] See /www.corteidh.or.cr/docs/casos/articulos/seriec_304_esp.pdf, and www.corteidh.or.cr/docs/casos/articulos/seriec_305_esp.pdf.

[55] Executive Decree No. 01 of 2016.

56. OHCHR welcomes the strengthening of the Office of the Special Prosecutor for Femicide since its establishment in 2015, with 10 prosecutors and 30 investigators posted in its two offices in Tegucigalpa and San Pedro Sula, and the establishment of mechanisms promoting the participation of women's organizations in dialogues with the institutions in charge of investigation and prosecution. At the same time, OHCHR underscores the need for the State party to deepen gender analysis in relation to gender-based killings, given the low level of understanding of femicide and the infrequency with which that crime is invoked before the courts. The response of the State party to this specific type of violence requires targeted interventions that recognize the multiple and intersecting forms of discrimination and inequalities that women and girls face and acknowledge the intrinsic link between femicide and their social and economic situation.

57. The continued prosecution of women who have undergone an abortion in itself constitutes a human rights violation. International human rights mechanisms have consistently reiterated that the continued criminalization of abortion in Honduras contravenes international human rights norms and standards.[56] In 2017, in Tegucigalpa alone, three women were charged with undergoing an abortion, one of whom was held in pretrial detention for six days.

58. The bodies and processes for the investigation of attacks against lesbian, gay, bisexual, transgender and intersex persons must be strengthened. According to the non-governmental organization Cattrachas, between 1 January and 30 December, 34 lesbian, gay, bisexual, transgender and intersex persons were killed, with charges being brought in only seven of those cases.

IX. OHCHR activities and cooperation with Government and State institutions

59. OHCHR carried out 56 missions, during which it met with civil representatives, indigenous communities, human rights defenders and their families and victims and witnesses of human rights violations.

60. In the context of the elections and the post-electoral protests, OHCHR carried out multiple missions to five departments besides Tegucigalpa, monitoring demonstrations and marches and visiting health-care centres and detention facilities. It interviewed more than 200 persons, including victims, witnesses and other sources, and sought information from a range of civil and military authorities.

61. OHCHR provided technical assistance to the National Congress in harmonizing draft bills with international standards, including bills on strengthening public security, the Penal Code, on the protection of the rights of persons with disabilities, on weapons and on private security companies.

62. In cooperation with the Special Prosecutor for Ethnic Groups and Cultural Heritage, OHCHR delivered a series of training courses on indigenous peoples' rights for law enforcement personnel. It also provided capacity-building for State officials on economic and social rights and women's rights, including on the prosecution of violence against women and femicide.

63. OHCHR organized the following events: a national symposium on human rights and criminal law, in February; a conference on the penitentiary system, in March; a workshop for women human rights defenders, in cooperation with the Centre for Justice and International Law, in August; a workshop on strategic litigation before the Inter-American system; and a workshop on the right to peaceful assembly and reunion, which was attended by representatives of civil and military institutions.

64. OHCHR provided technical assistance to the Office of the Attorney General in the development of a protocol on the investigation of attacks against human rights defenders.

[56] See CCPR/C/HND/CO/2, paras. 16–17.

65. OHCHR prepared a study on the impact of the integration of human rights education into the curriculum of the national police.

66. In coordination with the School of Judicial Studies and the OHCHR Women's Human Rights and Gender Section, OHCHR presented a toolkit for incorporating a human rights and gender-based approach into prosecutions and judgments related to femicide and other forms of violence against women.

67. OHCHR collaborated closely with the Office of the National Commissioner for Human Rights. It also interacted regularly with the National Committee for the Prevention of Torture, organizing joint events to share information on relevant issues and providing technical advice.

68. OHCHR maintained close contact with the Ministry of Human Rights, Justice, Governance and Development and its different directorates, alerting them to situations of concern and providing advice and technical cooperation and capacity building, including to the Directorate General of the Protection System. OHCHR supported the participation of the staff of the Ministry in OHCHR-led international training programmes, as well as in national events.

69. At the request of the parties, OHCHR continued to participate as an observer in dialogues between civil society organizations and the Government on overseeing the implementation of the public policy and national action plan on human rights for the period 2013–2022.

70. OHCHR continued to promote the national human rights debate through interviews, press releases, press conferences, meetings with journalists and the presentation of its annual report.

X. Recommendations

Post-electoral context

71. **While reiterating previous recommendations, the United Nations High Commissioner for Human Rights urges the Government and/or institutions to:**

(a) **Conduct prompt, effective, independent and transparent investigations into the allegations of human rights violations by members of the security forces in the context of the post-electoral protests and to ensure accountability and effective remedy and reparation for victims;**

(b) **Urgently undertake an assessment of the rules of engagement and ensure that all use of force be carried out in compliance with international legal standards, including open fire regulations, and ensure that any disproportionate use of lethal force be accompanied by full public accountability;**

(c) **Engage in a participative national dialogue on reforms that promote development, human rights and reconciliation, also taking into due consideration the recommendations of the Truth and Reconciliation Commission formulated in its 2011 report.**

Poverty and economic and social issues

72. **While reiterating previous recommendations, the United Nations High Commissioner for Human Rights urges the Government and/or institutions to:**

(a) **Step up efforts to fight poverty, especially extreme poverty, paying due attention to differences and gaps between urban and rural areas, and ensure adequate funding for the realization of economic and social rights;**

(b) **Take the necessary steps to ensure fair access to land and natural resources, including the safeguarding of the land-use rights of smallholders in particular, paying due attention to eliminating discrimination against women and indigenous peoples, and adopt effective measures to avoid forced evictions and, when**

unavoidable, to mitigate their impact, and review related procedures for compliance with human rights standards;

(c) Ensure that the Ministry of Labour and Social Security fully exercises its mandate to monitor employment conditions and imposes sanctions where labour rights are infringed, in coordination with the judiciary;

(d) Adopt a policy or plan to guide business enterprises concerning their human rights responsibilities, in order to ensure that the private sector exercises due diligence and assesses the impact of business activities on human rights.

Security and justice

73. **While reiterating previous recommendations, the United Nations High Commissioner for Human Rights urges the Government and/or institutions to:**

(a) Design and implement a security plan that provides for rapid progress towards the demilitarization of public order functions, strengthens transparency in relation to defence and security matters, including in budgetary terms, and guarantees the development of a professional and accountable civilian police force that is properly vetted and trained;

(b) Ensure that domestic legislation is adopted or revised in line with human rights and other international law standards, prioritizing areas such as the use of force, organized crime, the control of firearms and ammunition and the regulation of private security companies, and reform terrorism-related legislation and abrogate articles 335 and 335 (b) of the Penal Code;

(c) Prioritize interventions that prevent violence and address its structural causes, including in relation to children in conflict with the law, favour the use of non-detention measures, increase resources dedicated to the juvenile justice system and improve conditions in centres where children are deprived of their liberty;

(d) Bring prison conditions into line with international norms and promote policies and programmes that favour the rehabilitation and reintegration of persons deprived of their liberty;

(e) Design programmes that effectively combat impunity and promote access to justice, with specific focus on women, persons living in poverty, indigenous peoples and other marginalized groups, step up legal aid programmes and ensure that legal assistance is immediately available, in particular for persons deprived of their liberty;

(f) Revise the investigative competencies and responsibilities of State offices, including the specialized unit responsible for the Public Order Military Police and the Office of the Special Prosecutor for Human Rights and promote the accountability of the security and law enforcement sector;

(g) Draw up a comprehensive plan designed to reform the justice sector and its structural problems, starting with strengthening the sector's independence and career structure.

Democratic space

74. **While reiterating previous recommendations, the United Nations High Commissioner for Human Rights urges the Government and/or institutions to recognize the role of human rights defenders and the importance of their work, take concrete steps to improve the investigation and prosecution of crimes against human rights defenders and strengthen the national protection mechanism.**

Indigenous peoples

75. **While reiterating previous recommendations, the United Nations High Commissioner for Human Rights urges the Government and/or institutions to reform or adopt legal frameworks and develop adequate policies to protect the rights of**

indigenous peoples, prioritize the right to consultation and to free, prior and informed consent and redouble efforts to delimit, demarcate, register, expand and upgrade indigenous land.

Violence against women and gender-based violence

76. **While reiterating previous recommendations, the United Nations High Commissioner for Human Rights urges the Government and/or institutions to take concrete steps towards eliminating discrimination based on sexual orientation and gender identity, including by tackling violence, and to ensure the prompt and effective investigation and prosecution of crimes committed against women and lesbian, gay, bisexual, transgender and intersex persons.**